

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOGAN MICHAEL BURKE,

Defendant.

CR 19-66-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Logan Michael Burke (Burke) has been accused of violating the conditions of his supervised release. Burke admitted all of the alleged violations. Burke's supervised release should be revoked. Burke should be placed in custody until December 17, 2020, with no supervised release to follow.

II. Status

Burke pleaded guilty to Assault by Striking, Beating or Wounding on November 20, 2019. (Doc. 48). The Court sentenced Burke to a custodial sentence of time served, followed by 1 year of supervised release. (Doc. 65). Burke's current term of supervised release began on March 18, 2020. (Doc. 69 at 1).

Petition

The United States Probation Office filed an Amended Petition on November 13, 2020, requesting that the Court revoke Burke's supervised release. (Doc. 78). The Amended Petition alleged that Burke had violated the conditions of his supervised release: 1) by destroying private property; and 2) by having telephone contact with the victim in this case.

Initial appearance

Burke appeared before the undersigned for his initial appearance on November 17, 2020. Burke was represented by counsel. Burke stated that he had read the Amended Petition and that he understood the allegations. Burke waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on November 17, 2020. Burke admitted that he had violated the conditions of his supervised release: 1) by destroying private property; and 2) by having telephone contact with the victim in this case. The violations are serious and warrant revocation of Burke's supervised release.

Burke's violations are Grade C violations. Burke's criminal history

category is I. Burke's underlying offense is a Class A misdemeanor. Burke could be incarcerated for up to 12 months. Burke could be ordered to remain on supervised release for up to 12 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 3 to 9 months.

III. Analysis

Burke's supervised release should be revoked. Burke should be placed in custody until December 17, 2020, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Burke that the above sentence would be recommended to Judge Morris. The Court also informed Burke of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Burke that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Burke stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That Logan Michael Burke violated the conditions of his supervised release: by destroying private property; and by having telephone contact with the victim in this case.

The Court **RECOMMENDS:**

That the District Court revoke Burke's supervised release and commit Burke to the custody of the United States Bureau of Prisons until December 17, 2020, with no supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 18th day of November, 2020.


John Johnston
United States Magistrate Judge